

INITIAL STATEMENT OF REASONS

Review Team Composition, 2000

[Notice published February 18, 2000]

Title 14 of the California Code of Regulations (14 CCR):

Amend:

§ 1037.3	Agency and Public Review
§ 1037.5	Review Teams to Be Established
§ 1090.17	Agency and Public Review for the NTMP
§ 1092.16	PTHP Review Inspection-Filing Return
§ 1092.18	Agency and Public Review for the PTHP
§ 1092.27	Report Minor Deviations

14 CCR § 1037.3 **Agency and Public Review**

PUBLIC PROBLEM, ADMINISTRATIVE REQUIREMENT, OR OTHER CONDITION OR CIRCUMSTANCE THE REGULATION IS INTENDED TO ADDRESS

The existing Forest Practice Rules under 14 CCR § 1037.3 require that the Director provide copies of a Timber Harvesting Plan (THP) in a file for public inspection. This rule also requires that a copy of the THP be transmitted to the Department of Fish and Game, the Regional Water Quality Control Board, the Department of Parks and Recreation, the county planning agency, and in some instances, to the California Tahoe Regional Planning Agency and the California Coastal Commission. The Division of Mines and Geology (DMG) is not currently recognized as a formal member of the THP Review Team. Therefore, the current rules do not require that copies of THPs be sent to that agency for review. Since the inception of the Z'berg-Nejedly Forest Practice Act (Act) DMG has played an important part in the review of THPs. It has provided geologic and geomorphic analysis on roads, yarding methods and other timber harvesting activities, which may result in mass wasting. However, the current rules do not require that DMG be provided with the appropriate documents to facilitate this review.

Additionally, the existing rules incorrectly reference the California Coastal Commission, the California Tahoe Regional Planning Agency, and the California Code of Regulations and contain other minor grammatical errors.

SPECIFIC PURPOSE OF THE REGULATION

The purpose of the regulation is to specifically require that the Director provide the DMG with a copy of any Timber Harvesting Plans received for filing in accordance with 14 CCR § 1037 of the Forest Practice Rules. This is intended to provide further public

confidence that the potential for the water quality impacts often associated with mass wasting and other geologic events is being addressed with the proper expertise.

Additionally, the changes are intended to provide clarity, and consistency with other sections of the rules.

NECESSITY

This amendment is necessary to provide DMG, as a formal member of the Timber Harvesting Plan Review Team, adequate information for review of THPs submitted to the Director for filing. Since the inception of the Z'berg-Nejedly Forest Practice Act (Act) DMG has played an important part in the review of THPs. It has provided geologic and geomorphic analysis on roads, yarding methods and other timber harvesting activities, which may result in mass wasting and the subsequent impacts to the beneficial uses of water. Due to the importance of DMG evaluations, it is important that DMG be provided adequate information for the review of THPs to determine if the THPs would have remaining significant impacts if approved by the Director. This will provide a stronger assurance the proper expertise is available to evaluate the potential for timber operations to result in mass wasting with secondary impacts to the beneficial uses of water.

Additionally, the changes are needed to provide clarity, and consistency with other sections of the rules.

14 CCR § 1037.5 Review Teams to Be Established

PUBLIC PROBLEM, ADMINISTRATIVE REQUIREMENT, OR OTHER CONDITION OR CIRCUMSTANCE THE REGULATION IS INTENDED TO ADDRESS

The existing Timber Harvesting Plan (THP) Review Team is composed of representatives of the Regional Water Quality Control Board, the Department of Fish and Game, a representative of county government when the county government so requests, California Coastal Commission (for plans in the coastal zone), the California Tahoe Regional Planning Agency and the Department of Forestry and Fire Protection. The Division of Mines and Geology (DMG) is not currently a formal member of the Review Team. Since the inception of the Z'berg-Nejedly Forest Practice Act (Act) DMG has played an important part in the review of THPs. It has provided geologic and geomorphic analysis on roads, yarding methods and other timber harvesting activities, which may result in mass wasting and subsequent impacts to the beneficial uses of water. Due to the importance of DMG evaluations it is important that it be made a formal member of the Review Team to provide the public assurance that such expertise is provided and provides DMG the ability to non-concur on a THP where its evaluation concludes that THP would have remaining significant impacts if approved by the Director.

Additionally, the existing rules incorrectly reference the California Coastal Commission and the California Code of Regulations, and contain other minor grammatical errors.

SPECIFIC PURPOSE OF THE REGULATION

The purpose of the regulation is to establish DMG as a formal member of the THP Review Team. This provides further public confidence that the potential for the water quality impacts of mass wasting is being addressed with the proper expertise. This will also be assured as DMG will gain authority for the filing of a non-concurrence where its evaluation concludes that significant adverse impacts will remain if the THP is approved by the Director.

Additionally, the changes are intended to provide clarity, and consistency with other sections of the rules.

NECESSITY

This amendment is necessary to establish DMG as a formal member of the THP Review Team. This will provide a stronger assurance the proper expertise is available to evaluate the potential for timber operations to result in mass wasting with secondary impacts to the beneficial uses of water. This assurance will also result in that DMG will now have authority to non-concur in the Review Team process.

Additionally, the changes are needed to provide clarity, and consistency with other sections of the rules.

14 CCR § 1090.17 Agency and Public Review for the NTMP

PUBLIC PROBLEM, ADMINISTRATIVE REQUIREMENT, OR OTHER CONDITION OR CIRCUMSTANCE THE REGULATION IS INTENDED TO ADDRESS

The existing Forest Practice Rules under 14 CCR § 1090.17 require that the Director provide copies of a Nonindustrial Timber Management Plan (NTMP) in a file for public inspection. This rule also requires that a copy of the NTMP be transmitted to the Department of Fish and Game, the Regional Water Quality Control Board, the Department of Parks and Recreation, the county planning agency, the California Coastal Commission, and other appropriate agencies. The Division of Mines and Geology (DMG) is not currently recognized as a formal member of the NTMP Review Team. Therefore, the current rules do not require that copies of NTMPs be sent to DMG for review. Currently, DMG plays an important part in the review of NTMPs. It has provided geologic and geomorphic analysis on roads, yarding methods and other timber harvesting activities, which may result in mass wasting. However, the current rules do not require that this agency be provided with the appropriate documents to facilitate this review.

Additionally, the existing rules incorrectly reference the California Coastal Commission, do not reference the California Tahoe Regional Planning Agency, and contain other minor grammatical errors.

SPECIFIC PURPOSE OF THE REGULATION

The purpose of the regulation is to specifically require that the Director provide the DMG with a copy of any Nonindustrial Timber Management Plans received for filing in accordance with 14 CCR § 1090.16 of the Forest Practice Rules. This is intended to provide further public confidence that the potential for the water quality impacts often associated with mass wasting and other geologic events is being addressed with the proper expertise.

Additionally, the changes are intended to provide clarity, and consistency with other sections of the rules.

NECESSITY

This amendment is necessary to provide DMG, as a formal member of the Nonindustrial Timber Management Plan Review Team, adequate information for review of NTMPs submitted to the Director for filing. Currently, DMG plays an important part in the review of NTMPs. It has provided geologic and geomorphic analysis on roads, yarding methods and other timber harvesting activities, which may result in mass wasting and the subsequent impacts to the beneficial uses of water. Due to the importance of DMG evaluations, it is important that DMG be provided adequate information for the review of NTMPs to determine if the NTMPs would have remaining significant impacts if approved by the Director. This will provide a stronger assurance the proper expertise is available to evaluate the potential for timber operations to result in mass wasting with secondary impacts to the beneficial uses of water.

Additionally, the changes are needed to provide clarity, and consistency with other sections of the rules.

14 CCR § 1092.16 PTHP Review Inspection-Filing Return

PUBLIC PROBLEM, ADMINISTRATIVE REQUIREMENT, OR OTHER CONDITION OR CIRCUMSTANCE THE REGULATION IS INTENDED TO ADDRESS

The existing Forest Practice Rules under 14 CCR § 1092.16 require that the Department notify the plan submitter, the Department of Fish and Game, and the Regional Water Quality Control Board if a preharvest inspection is necessary as part of the review of a Program Timber Harvesting Plan (PTHP). The Division of Mines and Geology (DMG) is not currently recognized as a formal member of the PTHP Review Team. Therefore, the current rules do not require that DMG be notified of the necessity for a preharvest inspection. Currently, DMG plays an important part in the review of PTHPs. It has

provided geologic and geomorphic analysis on roads, yarding methods and other timber harvesting activities, which may result in mass wasting. However, the current rules do not require that DMG be provided with the appropriate information regarding the need for a field review of the plans, which would facilitate overall adequate review of PTHPs.

Additionally, the existing rules incorrectly reference PRC § 4582.7 and contain other minor grammatical errors.

SPECIFIC PURPOSE OF THE REGULATION

The purpose of the regulation is to provide DMG adequate notice of the need for a preharvest inspection as a formal member of the PTHP Review Team. This provides further public confidence that the potential for the water quality impacts of mass wasting is being addressed with the proper expertise.

Additionally, the changes are intended to provide clarity, and consistency with other sections of the rules.

NECESSITY

This amendment is necessary to provide DMG, as a formal member of the Program Timber Harvesting Plan Review Team, adequate opportunity for field review of PTHPs submitted to the Director for filing. Currently, DMG plays an important part in the review of PTHPs. It has provided geologic and geomorphic analysis on roads, yarding methods and other timber harvesting activities, which may result in mass wasting and the subsequent impacts to the beneficial uses of water. Due to the importance of DMG evaluations, it is important that DMG be provided adequate opportunity for field review of PTHPs to determine if the PTHPs would have remaining significant impacts if approved by the Director. This will provide a stronger assurance the proper expertise is available to evaluate the potential for timber operations to result in mass wasting with secondary impacts to the beneficial uses of water.

Additionally, the changes are needed to provide clarity, and consistency with other sections of the rules.

14 CCR § 1092.18 Agency and Public Review for the PTHP

PUBLIC PROBLEM, ADMINISTRATIVE REQUIREMENT, OR OTHER CONDITION OR CIRCUMSTANCE THE REGULATION IS INTENDED TO ADDRESS

The existing Forest Practice Rules under 14 CCR § 1092.18 require that the Director provide copies of a Program Timber Harvesting Plan (PTHP) in a file for public inspection. This rule also requires that a copy of the PTHP be transmitted to the Department of Fish and Game, the Regional Water Quality Control Board, the Department of Parks and Recreation, the county planning agency, the California Tahoe

Regional Planning Agency, and the California Coastal Commission. The Division of Mines and Geology (DMG) is not currently recognized as a formal member of the PTHP Review Team. Therefore, the current rules do not require that copies of PTHPs be sent to that agency for review. Currently, DMG plays an important part in the review of PTHPs. It has provided geologic and geomorphic analysis on roads, yarding methods and other timber harvesting activities, which may result in mass wasting. However, the current rules do not require that DMG be provided with the appropriate documents to facilitate this review.

Additionally, the existing rules incorrectly reference the California Coastal Commission and utilize an abbreviation for the Department of Fish and Game. This language is not consistent with other sections of the rules.

SPECIFIC PURPOSE OF THE REGULATION

The purpose of the regulation is to specifically require that the Director provide the DMG with a copy of any Program Timber Harvesting Plans received for filing in accordance with 14 CCR § 1092.16 of the Forest Practice Rules. This is intended to provide further public confidence that the potential for the water quality impacts often associated with mass wasting and other geologic events is being addressed with the proper expertise.

Additionally, the changes are intended to provide clarity, and consistency with other sections of the rules.

NECESSITY

This amendment is necessary to provide DMG, as a formal member of the Program Timber Harvesting Plan Review Team, adequate information for review of PTHPs submitted to the Director for filing. Currently DMG plays an important part in the review of PTHPs. It has provided geologic and geomorphic analysis on roads, yarding methods and other timber harvesting activities, which may result in mass wasting and the subsequent impacts to the beneficial uses of water. Due to the importance of DMG evaluations, it is important that DMG be provided adequate information for the review of PTHPs to determine if the PTHPs would have remaining significant impacts if approved by the Director. This will provide a stronger assurance the proper expertise is available to evaluate the potential for timber operations to result in mass wasting with secondary impacts to the beneficial uses of water.

Additionally, the changes are needed to provide clarity, and consistency with other sections of the rules.

14 CCR § 1092.27 Report Minor Deviations

PUBLIC PROBLEM, ADMINISTRATIVE REQUIREMENT, OR OTHER CONDITION OR CIRCUMSTANCE THE REGULATION IS INTENDED TO ADDRESS

The existing Forest Practice Rules under 14 CCR § 1092.27(b) allow the Director five (5) working days to determine if a proposed deviation from the requirements of a plan is to be considered minor or substantial. To facilitate this determination, the Department utilizes information from the other reviewing agencies. In order for these agencies to provide input to the Director prior to this determination, the Director is required to send copies of the proposed deviation to the Department of Fish and Game, the Regional Water Quality Control Board, and any county that has adopted special rules. The Division of Mines and Geology (DMG) is not currently a formal member of the Review Team. Therefore, the Director is not currently required to provide the DMG with copies of any proposed deviation to a plan. The DMG has played an important part in the review of PTHPs. It has provided geologic and geomorphic analysis on roads, yarding methods and other timber harvesting activities, which may result in mass wasting and may also result in impacts to the beneficial uses of water. Due to the importance of DMG evaluations, it is important that DMG be provided adequate information about changes proposed to any Program Timber Harvesting Plan. This also provides DMG the ability to determine if changes would have remaining significant impacts if approved by the Director.

Additionally, the existing rules contain a minor grammatical error.

SPECIFIC PURPOSE OF THE REGULATION

The purpose of the regulation is to specifically require that the Director provide the DMG with a copy of any proposed deviation to a Program Timber Harvesting Plan upon receipt. This is intended to provide further public confidence that the potential for the water quality impacts often associated with mass wasting and other geologic events is being addressed with the proper expertise.

Additionally, the changes are intended to provide clarity to this existing section of the rules.

NECESSITY

This amendment is necessary to provide DMG, as a formal member of the Review Team, adequate information for review of proposed deviations to plans submitted to the Director. The DMG has played an important part in the review of PTHPs. It has provided geologic and geomorphic analysis on roads, yarding methods and other timber harvesting activities, which may result in mass wasting and the subsequent impacts to the beneficial uses of water. Due to the importance of DMG evaluations, it is important that DMG be provided adequate information for the review of changes to PTHPs to determine

if the changes would have remaining significant impacts if approved by the Director. This will provide a stronger assurance the proper expertise is available to evaluate the potential for timber operations to result in mass wasting with secondary impacts to the beneficial uses of water.

Additionally, the changes are needed to provide clarity to this existing section of the rules.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS

The Board consulted the following publications as referenced in this *Initial Statement of Reasons*:

1. Public Resources Code § 750 *et seq.*
2. Barclays Official California Code of Regulations

The Board did not rely on any other technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this regulation.

ALTERNATIVES TO THE REGULATION CONSIDERED BY THE BOARD AND THE BOARD'S REASONS FOR REJECTING THOSE ALTERNATIVES

No other alternatives were presented to, or considered by the Board at this time.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS

The Board has not identified any alternatives that would lessen any adverse impact on small businesses.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS

The Board finds that the proposed rule amendments will not have significant adverse economic impacts on any business. The rules do not apply to any operational or planning aspect of businesses that would be associated with timber harvesting. Furthermore, the Division of Mines and Geology has participated in Timber Harvesting Plan review consistently in the past, and has been provided adequate information by the Department to facilitate this review.

POSSIBLE SIGNIFICANT ADVERSE ENVIRONMENTAL EFFECTS AND MITIGATIONS

The Board has not identified any adverse environmental effects from the proposed action.

Pursuant to Government Code § 11346.2(b)(6): In order to avoid unnecessary duplication or conflicts with federal regulations contained in the Code of Federal Regulations addressing the same issues as those addressed under the proposed regulation revisions listed in this *Initial Statement of Reasons*; the Board has directed staff to review the Code of Federal Regulations. The Board staff determined that no unnecessary duplication or conflict exists.

PROPOSED TEXT

The proposed revisions or additions to the existing rule language is represented in the following manner:

UNDERLINE indicates an addition to the California Code of Regulations, and

~~STRIKETHROUGH~~ indicates a deletion from the California Code of Regulations.

All other text is existing rule language.

doh: 2/4/2000

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